

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6478 OF 2019
[@ SPECIAL LEAVE PETITION (C) NO. 5607 OF 2017]

GENERAL MANAGER (REGION)
FOOD CORPORATION OF INDIA

Appellant(s)

VERSUS

RAMDAYAL MEENA & ORS.

Respondent(s)

O R D E R

1. Heard the learned counsel for the parties.
2. Leave granted.
3. The only question involved in the present matter is that whether the Food Corporation of India is justified in withholding the gratuity of the respondent - employee who has served them in the capacity of District Manager. He attained the age of superannuation on 30.04.2014. The chargesheet was ordered to be issued on 28.04.2014. It was issued on 29.04.2014. An effort was made to serve it upon the respondent in person by sending a Messenger, however, as the respondent was not in town and his house was found locked, as such, the chargesheet was pasted on the door of his house on 30.04.2014. At the same time, on the very same day, it was issued by Registered Post with acknowledgment due also to the delinquent employee.

4. The Food Corporation of India (Staff) Regulations, 1971 have been framed in exercise of the powers conferred by Section 45 of the Food Corporation of India Act, 1964. Regulation 60A prescribes the procedure for disciplinary proceedings after retirement. The same is extracted hereunder :-

"60-A -Procedure for disciplinary proceedings after retirement :

(i) Any disciplinary proceeding, if instituted by issue of chargesheet while the employee was in service, whether before his retirement or during his re-employment, shall, after the retirement of the employee, be continued and concluded by the authority by which it was commenced, in the same manner, as if the employee had continued in service.

(ii) Such proceeding after retirement should be completed expeditiously and within twelve months from the date of delivery of charge sheet to the charged official, subject to Court Orders, if any.

(iii) During the pendency of the disciplinary proceedings, the disciplinary authority may withhold

payment of gratuity for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the Corporation, if the employee is found in a disciplinary proceedings or judicial proceedings to have been guilty of offence or misconduct as mentioned in the relevant Sections of the Payment of the Gratuity Act, 1972 (39 of 1972) or to have caused pecuniary loss to the Corporation by misconduct or negligence during his service, including service rendered on deputation or on re-employment after retirement, provided that the provisions of relevant Sections of the Payment of Gratuity Act, 1972 shall be kept in view in the event of delayed payment, in case, the employee is fully exonerated".

5. It is apparent from Regulation 60A that the disciplinary proceedings, if instituted by issue of chargesheet while the employee was in service, whether before his retirement or during his reemployment, shall, after the retirement of the employee, be continued and concluded in the same

manner as if the employee had continued in service.

6. Regulation 60A (iii) clearly provides that during the pendency of the disciplinary proceedings, the disciplinary authority may withhold payment of gratuity for ordering the recovery from the gratuity of the whole or part of any pecuniary loss caused to the Corporation.

7. We have considered the facts of the case. In view of the clear provisions made in the aforesaid Regulations, it is apparent that it is not the service of the chargesheet, but the date of issuance of the chargesheet which is material in order to continue the disciplinary proceedings even after the retirement or during reemployment, as the case may be.

8. In the instant case, the chargesheet was ordered to be issued on 28.04.2014, and was issued on 29.04.2014 and was served by way of mode of affixure on 30.04.2014. It was submitted that knowing that the chargesheet had been issued, lock had been put by the respondent-employee on his house and in the circumstances, the chargesheet could not be served personally.

9. Be that as it may, service of the chargesheet is not much material. The significant factor is the issuance of the chargesheet and that has been issued before the date of his retirement. As such, the employee can be said to have continued in service even after the retirement, as per Regulation 60A. Thus, the gratuity can be withheld. We find that the Food Corporation of India was justified in withholding the payment of gratuity during the pendency of the departmental inquiry.

10. There is a charge with respect to causing a loss of more than Rupees One Crore, of which recovery can also be ordered if the respondent is found guilty of the charge. Thus, we find justification in the action of the Food Corporation of India in withholding the payment of the gratuity during the pendency of the departmental inquiry. Whether the gratuity can be withheld or not, would depend upon the phraseology used in the Rule which governs the service conditions of an employee. In the instant case, the Regulation is clear that the gratuity can be withheld.

11. We are informed that though the inquiry has been concluded, but punishment could not be imposed owing to the fact that the respondent employee has obtained

stay from the High Court.

12. Resultantly, the order passed by the Controlling Authority and the High Court are set aside and the appeal is allowed.

There shall be no order as to costs.

.....J.
[ARUN MISHRA]

.....J.
[M. R. SHAH]

.....J.
[B.R. GAVAI]

New Delhi;
AUGUST 20, 2019.

ITEM NO.9

COURT NO.4

SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition for Special Leave to Appeal (C) No. 5607 of 2017

[Arising out of the final Judgment and order dated 19.10.2016 of the High Court of Madhya Pradesh, Principal Seat at Jabalpur in W.P. No. 6539 of 2016 (S)]

GENERAL MANAGER (REGION)
FOOD CORPORATION OF INDIA

Petitioner(s)

VERSUS

RAMDAYAL MEENA & ORS.

Respondent(s)

Date : 20-08-2019 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARUN MISHRA
HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE B.R. GAVAI

For Appellant(s) Mr. Ajit Pudussery, AOR
Mr. Ajeet Singh Verma, Adv.
Mr. Vijayan K., Adv.

For Respondent(s) Mr. Romy Chacko, AOR
Mr. Prashant Kumar, Adv.
Mr. Chandan Kumar Mandal, Adv.
Mr. Shakti Chand Jaidwal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending interlocutory application(s), if any, is/are disposed
of.

(JAYANT KUMAR ARORA)
COURT MASTER

(JAGDISH CHANDER)
BRANCH OFFICER

(Signed order is placed on the file)